



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Availability: Solicitation of Grant Applications for FY 2013 Tribal Transit Program Funds; and Responses to the November 9, 2012

Solicitation of Comments.

SUMMARY: This Notice accomplishes several purposes. First, the U.S. Department of Transportation (DOT), Federal Transit Administration (FTA) summarizes and responds to written comments FTA received in response to a November 9, 2012, *Federal Register* Notice regarding proposed grant program provisions for this modified program. Second, this Notice establishes the framework for the Tribal Transit Program, including the terms and conditions and local match requirements. Finally, this Notice announces the availability of funds and a national solicitation for proposals from grantees for projects selected on a competitive basis; the grant terms and conditions that will apply to the discretionary program; and grant application procedures and selection criteria for FY 2013 projects.

DATES: Complete proposals for the Tribal Transit Program announced in this Notice must be submitted by 11:59 p.m. EDT on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. All proposals must be submitted electronically through the GRANTS.GOV “APPLY” function. Any tribe intending to

apply should initiate the process of registering on the GRANTS.GOV site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found on FTA's website at <http://www.fta.dot.gov/tribaltransit> in the "FIND" module of GRANTS.GOV.

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA Regional Office at <http://www.fta.dot.gov> for proposal-specific information and issues. For general program information, contact Lorna Wilson, Office of Program Management, (202) 366-0893, email: lorna.wilson@dot.gov or Elan Flippin, Office of Program Management, (202) 366-3800, email: elan.flippin@dot.gov. ATDD is available at 1-800-877-8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

Table of Contents

- A. Overview
- B. Background
- C. Comments and Responses
 - 1. Formula Program
 - 2. Discretionary Program
 - 3. Cost Sharing, Matching, and Indirect Costs
 - 4. Terms and Conditions for Formula and Discretionary
- D. Funding Opportunity For FY 2013
 - 1. Overview
 - 2. Program Purpose
 - 3. Program Information

4. Technical Assistance and Other Program Information

A. Overview

Section 5311(j) of MAP-21, Public Law 112-41 (July 6, 2012), authorizes the Public Transportation on Indian Reservations Program (Tribal Transit Program (TTP)) for Fiscal Years (FY) 2013-2014. The program authorizes direct grants “under such terms and conditions as may be established by the Secretary” to Indian tribes for any purpose eligible under FTA’s Formula Grants for Rural Areas Program, 49 U.S.C. 5311. The modified Tribal Transit Program continues to be a set-aside from the Formula Grants for Rural Areas program but now consists of a \$25 million formula program and a \$5 million discretionary grant program subject to the availability of appropriations. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands. Discretionary funds are available annually on a competitive basis.

B. Background

FTA published a *Federal Register* Notice dated October 16, 2012, “Notice of FTA Transit Program Changes, Authorized Funding Levels, and Implementation of the Moving Ahead for Progress in the 21st Century Act (MAP-21): FTA Fiscal Year 2013 Apportionments, Allocations, Program Information and Interim Guidance.” The Notice announced new FTA programs and changes to current programs, including the Tribal Transit Program. Subsequently, FTA published *Federal Register* Notice (77 FR 67439) Fiscal Year 2013 Public Transportation on Indian Reservation Program: Request for comment, Announcement of Public meetings on November 9, 2012. The *Federal Register* Notice set forth and requested public comments on the proposed implementation of both the formula and discretionary program under the Tribal Transit

Program. FTA requested comment on the following issues: the proposed method FTA will use to allocate formula funds; grantee eligibility; eligible purposes for grant funds; proposed terms and conditions for the grant program, and local match requirements. The Notice also announced two one-day outreach meetings on the Tribal Transit Program. The comment period on the November 9, 2012, *Federal Register* Notice ended on January 8, 2013. FTA accepted late comments to the extent practicable.

C. Comments and Responses

FTA received 28 submissions in response to the November 9, 2012, *Federal Register* Notice and additional oral comments received from the Indian tribes, other stakeholders, and organizations at the two outreach meetings held in November and December of 2012. The 28 submissions contained 250 separate responses. The comments have been divided into the following categories: (1) the process by which FTA should allocate TTP formula funds; (2) eligible applicants and eligible projects under the discretionary program, as well as the establishment of minimum and maximum grant award amounts under the discretionary program and prioritization of projects within the discretionary program; (3) proposed options for local match, and indirect costs (4) the terms and conditions applied to grants awarded under the TTP; and other issues that were not specifically proposed or addressed in the November 9, 2012 *Federal Register* Notice.

The comments received from the Indian tribes, state DOT's and tribal organizations were generally favorable to the proposed implementation of the program and program requirements.

1. Formula Program

Under MAP-21, the Tribal Transit Program (TTP) distributes \$25 million by a formula apportionment to eligible Indian tribes providing public transportation on tribal lands. FTA publishes an annual apportionment notice that includes program and funding information on all FTA formula and discretionary programs. All formula apportionments are based on congressional appropriations. The FY 2013 full year apportionment notice, includes the formula apportionments (shown in Table 10) for the Tribal Transit Program as modified under MAP-21. The funds shown in Table 10 on FTA's website are available for obligation for eligible projects consistent with the Rural Areas Formula program. Further Tribal Transit Program guidance will be included in a new chapter in the upcoming revision of the FTA Circular 9040.1. The Tribal Transit Program formula is described below.

i. Statutory Formula

Based on the statutory language in MAP-21, Tribal Transit Program (TTP) funds are apportioned directly to Indian tribes using a three-tier formula. Tiers 1 and 2 use vehicle revenue mile (VRM) data as reported to the National Transit Database (NTD); Tier 3 is based on 2010 U.S. Census data. Consistent with FTA's other formula programs, FTA is required to use the NTD as the system of record for the VRM data for the first two tiers of the formula. Since the inception of the TTP in FY 2006, tribes that receive a cumulative amount of more than \$50,000 in TTP grants have been required to report data to the NTD. Tribes that operate public transportation services, but which have not yet participated in the TTP, are encouraged to file a report to the NTD on a voluntary basis to qualify for inclusion in future TTP apportionments.

The statutory tiers for the formula are:

Tier 1--50 percent of the amount made available for distribution by TTP formula, to be apportioned based on VRM as reported to the NTD;

Tier 2--25 percent of the amount made available for distribution by TTP formula, to be apportioned equally among Indian tribes providing at least 200,000 VRM;

Tier 3--25 percent of the amount made available for distribution by TTP formula, to be apportioned to Indian tribes providing public transportation on reservations in which more than 1,000 low income individuals reside. No tribe can receive more than \$300,000 from this tier.

FTA will apportion funds based on these three tiers. A table of formula apportionments will be posted to the FTA website coinciding with the publication of this Notice (<http://www.fta.dot.gov/grants/15105.html>). Compared to the 2012 TTP, the 2013 TTP as authorized by Congress represents an increase in funding from \$15 million to \$30 million. However, since all but \$5 million of the 2013 TTP funds are apportioned by formula, tribal transit operations that received relatively large discretionary grants in the past may see a decrease in funding as 2013 funds are spread over a broader constituency due to the three-tier formula. The actual amount available in FY 2013 is included in FTA's Supplemental Fiscal Year 2013 Apportionments, Allocations, and Program Information.

In the November 9, *Federal Register* Notice, FTA posted a request for comment on the fiscal year 2013 Public Transportation on Indian Reservations Program (referred to here as the TTP). In this notice (201277 FR 67439) FTA sought comment on specific questions concerning the methodology used to apportion TTP formula funding. Specifically, FTA proposed questions on factors related to the attribution of VRM data

and the allocation of formula funding. This Notice responds to the pertinent comments received. FTA also received comments suggesting alternative approaches to allocating TTP formula funds. However, as the TTP formula is prescribed by MAP-21, FTA does not have authority to implement alternative approaches and therefore, FTA has not addressed those individual comments.

FTA's responses to questions on the TTP formula factors as listed in the November 9 *Federal Register* notice are provided here under the following sections:

(ii) VRM; (iii) Service eligibility; (iv) Pro-rated shares for Local governmental agencies; (v) Tier 3 Formula Funding Eligibility; (vi) Eligibility of tribes exempt from NTD reports; (vii) Consolidation of data for Multiple Operators; (viii) Shared reservation apportionment factors; and (ix) Combining of poverty data for multiple reservations.

ii. Vehicle Revenue Miles (VRM)

Should FTA include VRM from Tribes in both the Tribal Transit Formula Program and the Rural Area Formula Program?

Comment: Fourteen commenters agreed with FTA's proposal to allow VRMs to count in both the Tribal Transit Program and the Formula Grants for Rural Areas Program. According to the commenters, tribes who have provided public transportation for many years under the TTP would receive a substantial decrease of funding under the new formula allocations. Three commenters disagreed with allowing this method of allocation in response to the Illustrative apportionments posted by FTA.

Response: Normally, FTA does not allow a single VRM to count twice towards different formulas (e.g., service between a rural area and an urbanized area (UZA) may count towards the Rural Area Formula Program apportionment or the Urbanized Area

Formula Program apportionment, but not both). However, FTA will allow an exception under the TTP because the formula refers to “Indian tribe[s] providing public transportation” not to where the service is being operated, so a single vehicle revenue mile may be both “provided by an Indian tribe” for purposes of the Tribal Transit Formula and also “attributable to a rural area” for purposes of the Rural Area Formula. Thus, FTA will count vehicle revenue miles reported by Indian tribes in the NTD towards both the Tribal Transit Formula and towards the corresponding State in the Rural Area Formula.

iii. Service Eligibility

When another local government entity pays an Indian tribe to operate service in an off-reservation jurisdiction, should 100% of that service operated by the Indian tribe count towards the Tribal Transit Program formula?

Comment: Out of the 12 comments received by FTA on service eligibility, six commenters were in favor of allowing this service to count towards the TTP formula, four opposed and commented that if an Indian tribe is already being paid by the local government, they should not be paid twice through the TTP. Two commenters were neutral on the subject.

Response: FTA will continue to count 100 percent of service operated by Indian tribes towards the TTP apportionment. This interpretation is consistent with “each Indian tribe providing public transportation service.”

iv. Prorated Shares for Local Governmental Agencies

When an Indian tribe pays another local government entity to extend service to the Reservation, should a pro-rated share of the local government's vehicle revenue miles be counted towards the Tribal Transit formula?

Comment: Of the 11 comments received, six were in favor of counting these vehicle revenue miles, five opposed stating that FTA should not include local government VRM toward the TTP formula apportionment; one commenter was neutral. Those in favor felt that tribes would benefit from the application of the pro-rated share. One commenter proposed to allow the portion of the entity's VRM that is paid for by the tribe to qualify and to calculate the VRM in proportion to the share of the entity's operating budget provided by the tribe. They felt this approach would be equitable.

Response: As suggested, FTA will count a pro-rated share of the operator's VRMs towards the TTP apportionment, based on the portion of the total operating expenses provided by the Indian tribe. This share then would count towards both the Rural and TTP formulas. For purposes of the FY 2013 apportionment, as a result of these comments FTA engaged in a special data collection from impacted Indian tribes to ensure that the full amount of operating expenses provided by the tribe was collected. This is reflected in the final FY 2013 TTP apportionment table.

v. Tier 3 Formula Funding Eligibility

Should FTA consider tribes that actually are providing public transportation on Indian reservations when there is no revenue miles reported to the NTD for funding under Tier 3?

Comment: A large majority of the comments (9 out of 11) stated that FTA should only include Indian tribes in Tier 3 if they previously reported to the NTD. One

commenter stated that a tribe who reports measurable results should be rewarded, not those that lack record keeping. Another commenter, responding on behalf of several tribes, agreed with FTA's proposal to only consider Indian tribes that are providing public transportation on Indian reservations and that report to the NTD. The commenter stated that this policy proposal seemed to be required as a matter of fundamental fairness and consistency with Congress' intent in establishing the new TTP funding formula.

Response: FTA will consider all Indian tribes that are registered with the NTD for purposes of Tier 3 of the formula funding, even if the tribe did not report any public transportation service provided (e.g. no VRMs); however, the tribe must be engaged in providing public transportation in order to be eligible for formula funding. Specifically, FTA will consider all Indian tribes that are registered with the NTD and are providing public transportation as of October 1st, the first day of the current Fiscal Year, as eligible for Tier 3 of the formula funding for the fiscal year. As a result of this approach, two Indian tribes that were previously identified to receive an illustrative apportionment will not receive a full year apportionment; however, these Indian tribes may be eligible to apply for the discretionary program. Tribes can register to report to the NTD through the NTD web page (www.ntdprgram.gov) or by contacting the NTD operations center at 888-252-0963. Reporting to the NTD also allows a tribe to access Tier 1 and Tier 2 funds by reporting the VRM they provide.

vi. Eligibility of Tribes Exempt from NTD Reports

Should FTA consider allowing Tribal Transit Program grantees who were otherwise exempt from reporting based on grant dollar amount (under \$50,000) be given

an opportunity to report to the NTD or to FTA for inclusion in the FY 2013 apportionment?

Comments: Twelve of fourteen commenters were completely in favor of including data from previously exempt tribes in the formula apportionment. Two commenters felt that exempt Indian tribes could be included only if all current grantees were fully funded, and if VRM for the new tribes is verifiable.

Response: As noted above, FTA will only include Indian tribes that report to the NTD in the formula apportionment. Any tribe, exempt or not, can report to the NTD on a voluntary basis in the future and so qualify for consideration in the formula program. The majority of the exempt grantees (those with grant amounts under \$50,000) received planning grants only to develop new transit services and therefore, FTA does not expect that they have VRM to report. Absent a registration in NTD and absent VRM to report, the tribe is not included in formula program, but could be eligible under the discretionary program. If the Indian tribe begins reporting to the NTD now, it will be eligible to receive funds in the FY 2014 apportionment.

vii. Consolidation of Data for Multiple Operators

For Indian tribes that have multiple operators, should FTA consolidate the service data for all operators into a single apportionment?

Comment: Eleven of the 12 commenters agree that FTA should consolidate the service data for all operators into a single apportionment for Indian tribes that have multiple operators. One commenter agreed with an exception that the consolidation of service data should occur in consultation with the Indian tribes.

Response: FTA will consolidate the data into a single apportionment in consultation with the tribal communities affected by this policy.

viii. Shared Reservation Apportionment Factors

For Indian tribes that share lands identified by the US Census Bureau, such as in Oklahoma, how should FTA conduct the apportionment of funds?

Comment: Many Indian tribes commented on the question of how FTA should conduct the apportionment of funds amongst tribes who share reservation lands. The commenters identified four areas for FTA's consideration; (a) the need for FTA to develop a fair and consistent process to count VRM, population, and factors that constitute tribal land and to ensure that this process included the consultation of the Indian tribes. One commenter suggested that FTA utilize the same process for splitting transit shares as is utilized by Native American Housing Assistance and Self Determination Act population figures; (b) for Indian tribes that share lands, ensure that there is no double-counting of VRM or persons with incomes below the poverty line so that there is a fair outcome; (c) FTA's needs to be more consistent in the use of terms such as "tribal lands", "reservations", and "tribal communities". They are not the same and FTA usage prompted confusion among the readers; (d) commenters indicated that there is a single Indian tribe providing public transportation services in each of the shared reservation areas.

Response: FTA found three instances where more than one Indian tribe shares a tribal area as identified by the US Census Bureau. For TTP formula apportionments, the population of low-income individuals in the shared areas will be attributed to the Indian tribe that provides public transportation for that area. NTD staff has contacted the Indian

tribes involved to determine which tribe provides that service and has included the count of low-income residents of that shared area in with the count for the providing an Indian tribe's other tribal lands for formula apportionment calculations.

ix. Combining of Poverty Data for Multiple Reservations

In some instances, tribal operators may serve multiple reservations. Should FTA combine poverty data for all reservations served into a single apportionment?

Comment: Many of the commenters agreed that FTA should consolidate the service data for all tribes served by an operator into a single apportionment. Several commenters suggested that FTA must ensure that there is agreement amongst Indian tribes for distributing the apportionment fairly. One commenter disagreed and suggested that FTA allocate poverty data to the Indian tribe only and subsequently allow the Indian tribe to reallocate funds to its operators.

Response: FTA will combine the data from the US Census Bureau of multiples Indian tribes served by a single operator for purposes of the apportionment. In some cases, a single entity may represent multiple Indian tribes, only some of which are directly served by the sponsored public transportation service. In these cases, FTA will not combine the Census Data for any Tribal Lands that are not served at all by the public transportation service – only the Census data for Tribal Lands at least partially served by the public transportation service will be included. FTA proposes to let the tribal recipients then allocate these funds to sub-recipients according to local policy. This is consistent with FTA policy for other grant programs. FTA will provide technical assistance with this process upon request.

Other Comments

Indian tribes also offered recommendations and changes to FTA's proposals based on their unique perspective and experience in providing public transportation on Indian reservations. More specifically, representatives of the Alaska tribes expressed concern regarding distinctions between federal land and boundary issues. To the extent permissible by statute, FTA considered the comments and developed a formula program inclusive of all Indian tribes.

2. Discretionary Program

Under MAP-21, the Tribal Transit Program (TTP) makes \$5 million available to be allocated annually on a competitive basis and subject to the terms and conditions as established by FTA. With the presence of a formula program, which provides reliable and stable funding to many of Indian tribes and a much smaller discretionary program than in past years, FTA has established a new discretionary program as reflected in the responses to comments below. However, there will be some exceptions in the first year (FY 2013) of the discretionary program as noted in the NOFA section of this notice.

i. Eligibility

The November 9, 2012 *Federal Register* Notice posed the following questions for comment: *(a) Should eligible applicants under the discretionary program be restricted based on the availability of formula funds? (b) If the discretionary program should be restricted, should applicants and projects be limited based on the amount of formula allocation received?*

Comment: Many (sixteen) Indian tribes commented that there should be no restriction on who can apply for discretionary funds, and FTA should not tie eligibility of the discretionary program to that of the availability of the formula funds. Many Indian

tribes were concerned that their formula allocation was insufficient to sustain service. Indian tribes also commented that those who received small amounts of formula funds be given an opportunity to apply for discretionary funds. Eight tribes commented that Indian tribes who received Tier 2 funds under the formula should not be eligible to apply for discretionary funds. One Indian tribe commented that the discretionary program should be based on the merit of the proposal, while another Indian tribe commented that a limit on applicants might be needed due to the limited amount of funding under the discretionary program. One Indian tribe commented that only recipients of Tribal formula apportionments (5311 (c) grantees) should be eligible for funding under the discretionary program; another Indian tribe commented the discretionary funds should serve as a complement to the formula allocation.

Response: FTA will permit all federally recognized tribes to apply to the discretionary program with no limitations related to the availability of formula funds. Recipients of formula funds may apply for discretionary funds. We encourage Indian tribes to apply for discretionary funds regardless of whether they received a formula allocation. Further, FTA reminds Indian tribes and states that the receipt of either formula or discretionary TTP funds does not preclude the receipt of section 5311 Rural Area formula funds. In fact, the funds are not intended to supplant other federal funding and Indian tribes are encouraged to seek section 5311 funds from State Departments of Transportation.

(a) Should a portion of discretionary funds be set aside for: start-up projects, planning projects or expansion of services? (b) Should operating assistance continue to be eligible under the discretionary program? If so, what type of operating expenses?

Comment: Many Indian tribes commented that discretionary funds should be set aside for certain projects such as: start-ups, planning projects, and expansion of services. One Indian tribe commented that discretionary funds should be set aside for planning and start-up projects only, while two Indian tribes commented that only capital projects have set aside funds and priority only be given to Indian tribes with CNG bus fleets. However, two Indian tribes commented that there should be no set aside projects under the discretionary program. Several Indian tribes commented that FTA should continue to allow operating assistance to be eligible under the discretionary program. Tribes stated that operating expenses including maintenance of vehicles, salaries, operating costs of equipment and facilities, and fuel should be eligible expenses under the program. Numerous Indian tribes indicated that formula funds were inadequate to operate a system and they would need to apply for discretionary funds to cover the costs of operating. A small number of Indian tribes commented that operating should not be eligible under the discretionary program.

Response: Starting in FY 2013, FTA is limiting eligible projects under the discretionary program to the following: planning; operating for start-up systems only (with one exception for FY 2013); and capital for start-up services, replacement or expansion. FTA is aware that planning, operating, and capital activities are vital parts of Indian tribe's transportation systems and infrastructure. As a result, planning grants will continue to remain eligible. FTA also acknowledges that new tribal transit systems (e.g. start-up systems, services) need a funding source to seek funds for start-up operations and capital equipment needs for those services. FTA is striving to balance these needs with the fact that it wants to ensure that Indian tribes can operate transportation services

without depending on discretionary funds, particularly given the limited amount of available discretionary resources. Therefore, general operating assistance will no longer be eligible under the discretionary program under MAP-21, except in limited circumstances in FY 2013 as described in Section D of this Notice. Indian tribes now have a reliable source of funding available through the formula allocation, in addition to possible section 5311 or State formula funds, to maintain existing operations and/or expand current services. Capital, for any type of eligible transit project (e.g. start-up, replacement, or expansion) will continue to be eligible under the program.

ii. Funding Prioritization

Should FTA prioritize projects for funding as a part of the evaluation criteria? If so, what factors should be used to prioritize projects (continuation services, start-ups (new services), matching funds, etc.)?

Comment: Numerous Indian tribes who commented on funding prioritization suggested prioritizing expansion of services, continuation of services, and projects for which the Indian tribes can provide local match. A few Indian tribes stated FTA should allow Indian tribes to prioritize based on their own needs. Another Indian tribe stated that projects should not be prioritized based on project type, but rather, FTA should use vehicle revenue miles as an evaluation criterion and prioritize based on past service effectiveness; one tribe stated that prioritization should occur to ensure that those Indian tribes with the greatest needs are funded.

Response: FTA will not set funding priorities, however many Indian tribes commented that certain types of projects were needed, such as capital, operating and planning. FTA addressed this suggestion by permitting all of these categories to remain

eligible under the program, with some limitations such as operating, which will now be limited to start-up systems only, except in FY 2013.

iii. Grant Award Amount Limitation

Should FTA establish minimum and maximum grant awards to ensure that grant funding is large enough to aid Indian tribes?

Comment: Many Indian tribes commented that there should be a minimum or maximum grant award amount under the discretionary program. There were various amounts suggested by the Indian tribes; one Indian tribe commented that the maximum grant award should be \$1,000,000, while another Indian tribe commented that there should be a minimum grant award amount of \$50,000. Other Indian tribes commented that the establishment of a minimum and maximum grant award might be too rigid for expansion of services and new services, and planning projects should be limited to a certain number of awards with a maximum award amount set. However, a few Indian tribes commented that there should be no minimum or maximum established.

Response: With the exception of planning awards, there will be no set minimum and maximum grant award amount. Planning grants will continue to be set at a maximum of \$25,000. FTA will fund eligible projects based on the merit of the application and the Indian tribe's ability to successfully address all evaluation criteria.

3. Cost Sharing, Matching, and Indirect Costs

(a) Should FTA require an 80/20 Federal/local match for tribes for both capital and operating assistance under both the formula and discretionary? (b) Would an 80/20 match present a financial burden on tribes? If so, is there a proposed match amount that would be less burdensome?

Comment: Many Indian tribes commented that FTA should not require a local match. Ten Indian tribes commented that a local match should be required. Some Indian tribes commented that if a local match were to be imposed under the programs, a 90/10 match would be less burdensome than the proposed 80/20 match. Tribes who commented that FTA should require a local match stated that matching funds are a key component in building and maintaining a committed and financially responsible transit system; one Indian tribe commented that a match requirement would encourage Indian tribes to seek other sources of funding. Several Indian tribes commented that those tribes who could provide a local match be given priority for funding when selecting discretionary projects.

Response: Historically, this program required no local match. Under MAP-21, FTA will require a minimum local match of 10 percent under the discretionary program only, unless a tribe demonstrates a financial hardship. FTA will not require a local match for any of the funds distributed by formula. The local match under the discretionary program will apply to both capital and operating expenses. However, there will be no local match required for planning grants. FTA encourages Indian tribes to seek other sources of funding that are available to support public transportation services, as well as demonstrate commitment to the projects. Sources of local match include the following: undistributed cash surpluses, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; Local match may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the U.S. Department of Transportation) that are eligible to be expended for transportation. However, local funds may be derived from amounts made available to carry out the

Federal Lands Highway Program established by Section 204 of Title 23. Other U.S. DOT program funds are not eligible as match.

Should FTA retain the condition that indirect costs not exceed 10 percent of each Tribal Transit grant award under MAP-21?

Comment: Many Indian tribes commented that 10 percent was an acceptable indirect rate for TTP grant awards. One Indian tribe suggested a rate of 2 to 5 percent; another Indian tribe commented that when a tribe has negotiated an indirect cost rate with the Department of Interior's National Business Center, that rate applies to other federal agencies awarding grants to the Indian tribe. This tribe also commented that an indirect rate of 10 percent may be feasible for larger Indian tribes but not for smaller Indian tribes.

Response: Under the discretionary program, and consistent with past practices, eligible indirect costs will be limited to 10 percent of each Tribal Transit grant award. This will ensure the limited discretionary resources are spent on tangible transit services and equipment. Under the formula program, Indian tribes should follow FTA's guidance on charging indirect costs to the grant. This guidance can be found in FTA Circular 5010.1D, Chapter VI, Section 6, dated November 1, 2008. Indian tribes must have approved cost allocation plans and rates in order to charge indirect costs to the formula grant.

4. Terms and Conditions for Formula and Discretionary

Section 5311(c) of Title 49 U.S.C., as amended by MAP-21, provides that available funds shall be apportioned for grants to Indian tribes, "under such terms and conditions as may be established by the Secretary." The term

“Secretary” in this provision refers to the Secretary of Transportation. The Secretary of Transportation possesses the authority to limit the applicability of certain substantive and procedural requirements that are set forth in Title 49 (Transportation) of the United States Code. This includes the Federal transit assistance provisions in Chapter 53 (Public Transportation) of Title 49, which are administered by FTA.

To the extent permitted by law, and recognizing the unique status and autonomy of Indian tribes, FTA established the terms and conditions to balance the objectives of this program, which directly benefit transit projects for Indian tribes, with other national objectives (e.g., safety) that are important not only to Indian tribes but also to the general public. The Secretary of Transportation, however, does not possess the authority to limit the applicability of government-wide grant requirements (commonly referred to as crosscutting requirements) that apply to all Federal grants. Therefore, all crosscutting requirements, including the Common Rule, apply to the TTP.

FTA received 54 comments on the following Terms and Conditions FTA proposed to apply to Tribal Transit Program: 1. Common Grant Rule (49 CFR Part 18), “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.” 2. Civil Rights Act of 1964; 3. Section 504 and Americans with Disabilities Act of 1990 (ADA) requirements in 49 CFR Parts 27, 37, and 384; 4. Drug and Alcohol Testing requirements (49 CFR Part 655); 5. National Environmental Policy Act; 6. Charter Service and School Bus transportation requirements in 49 CFR Parts 604 and 605; 7. National Transit Database (NTD) Reporting requirement; 8. Bus Testing (49 CFR 665) requirement; 9. Buy America requirements (49 CFR Part 661); 10.

MAP-21, Section 5329 Agency Safety Management Plans; and 11. Transit Asset Management Provisions Transit Asset Management.

Comment: Two commenters, representing several Indian tribes, suggested requiring Indian tribes to comply with aspects of the Common Grant Rule for a transit grant causes confusion and hardship, and requested that FTA revisit its application of this rule and exercise its authority to interpret the rule in a manner that is consistent with the Indian Self- Determination and Education Assistance Act (ISDEAA) and Section 3 of Executive Order 13175.

Response: The U.S. Department of Transportation's Common Rule, which is codified at 49 C.F.R. Part 18, incorporates many Federal cross-cutting statutory requirements, but it also implements cost and property management standards established by the Office of Management and Budget which apply to all Federal assistance programs. Thus, FTA considers U.S. DOT's Common Rule to be in the nature of a crosscutting requirement, which should not be waived. In addition, Section 3 of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments", provides in relevant part that Federal agencies shall adhere to the principles in Executive Order 13175 "to the extent permitted by law". Thus, because ISDEAA applies only to the U.S. Department of the Interior and the U.S. Department of Health and Human Services, FTA is not permitted to apply or waive requirements as permitted by two other Federal departments under ISDEAA.

Comment: FTA received four comments suggesting that FTA not require Indian tribes to comply with FTA-program-specific Civil Rights guidance. One commenter suggested that FTA clarify in the Master Agreement that Tribal Employment Rights

Office (TERO) laws and ordinances consistent with Federal statutes do not violate the Civil Rights Act of 1964.

Response: FTA acknowledges exemptions and preferences afforded to Indian tribes under existing Federal law and the TTP. Thus, with respect to a tribal employment rights ordinance, as Indian tribes or their contractors are authorized by statute to include Indian preference in employment on projects located on or near reservations, the nondiscrimination provision in Title VII of the Civil Rights Act of 1964 would therefore not be applicable to Indian tribes (*See* 42 U.S.C. §2000e-2(i)). The same approach would apply to any other exemption or preference that might be afforded to Indian tribes under Federal law.

Unless Indian tribes are specifically exempted from civil rights statutes, compliance with civil rights statutes will be required, including compliance with equity in service. However, FTA does not require Indian tribes to comply with FTA program-specific guidance for Title VI.

Comment: Three Indian tribes agreed that FTA should apply ADA to the TTP. However, one commenter noted that FTA acknowledge the specific exemption of tribes under the ADA.

Response: Title I of the ADA exempts Indian tribes under the definition of “employer” and Title VII of the Civil Rights Act of 1964 also specifically exempts Indian tribes under the definition of an “employer”. However, Titles II and III of the ADA are silent with regard to Indian tribes obligation to provide services and benefits to ADA

eligible tribal members and/or Indian-operated public accommodations. In addition, Section 504 and ADA requirements in 49 CFR Parts 27, 37, and 38 are government-wide requirements that apply to all Federal programs and will continue to apply under the TTP.

Comment: Three commenters support FTA's application of Drug and Alcohol Testing to the TTP. One commenter disagreed and stated that existing tribal Drug and Alcohol Free Workplace Policy instated by tribal leadership should suffice.

Response: FTA will apply Drug and Alcohol Testing requirements (49 CFR Part 655). This requirement addresses a national safety issue for operators of public transportation.

Comment: FTA received three comments in support of FTA applying the requirements of the National Environmental Policy Act (NEPA) to the TTP.

Response: The National Environmental Policy Act is a government-wide requirement that applies to all Federal programs and will apply to the TTP.

Comment: Three commenters agreed that Charter and School Bus transportation requirements apply to the TTP. However, one Indian tribe requested that some of the Regional Transit Authority (RTA) member tribes operate casino shuttles and charters, as well as school buses that are essential components of their transit systems. One commenter suggested that FTA consider whether a waiver of this restriction is appropriate under the provisions of Executive Order 13175 in light of the special transportation needs and situations of rural tribal communities. Another commenter stated that Charter Service and School Bus requirements should apply for services of that type primarily to preserve safety of travel. As a caveat, however, the Indian tribe recognized

that services in rural areas that qualify as Human Services Organizations currently lack the funding and expertise to maintain certification.

Response: The definition of “public transportation” in 49 U.S.C. 5302 specifically excludes school bus transportation and charter service, and MAP-21 did not substantively alter this definition. Thus, TTP grantees may not provide or accommodate school bus transportation or charter service with FTA-funded vehicles or facilities except in accordance with regulatory exemptions or exceptions. Therefore, the Charter Service and School Bus transportation requirements in 49 CFR Parts 604 and 605 will continue to apply. However, FTA agrees with the comment and acknowledges that grantees, including TTP grantees, may continue to provide charter service to clients of a Qualified Human Service Organization, as defined at 49 C.F.R. Section 604.3(q) and in accordance with the provisions of 49 C.F.R. Part 604, subpart D.

Comment: Three commenters agreed that FTA apply NTD reporting requirement to the Tribal Transit Program.

Response: 49 U.S.C. 5335 requires NTD reporting for all direct recipients of section 5311 funds. The TTP is a section 5311 program that will provide funds directly to Indian tribes and this reporting requirement will therefore apply. In addition, the data reported to the NTD will be used in the annual formula apportionment for this program.

Comment: Two commenters agreed that Bus Testing safety and operational standards should apply to the TTP.

Response: FTA agrees with the comment. To ensure that vehicles acquired under this program will meet adequate safety and operational standards, FTA’s Bus Testing requirements (49 CFR 665) will apply.

Comment: Three commenters disagree with FTA applying Buy America law to the TTP. One commenter stated that there were situations that would prohibit an Indian tribe from meeting the requirement and the current waiver provisions may not be adequate to address specific tribal transit situations. One commenter strongly agreed that any major procurements funded under this program be “Buy America” compliant.

Response: FTA did not apply the Buy America requirement when SAFETEA-LU established the TTP because FTA determined that the relatively small size of the TTP did not justify the application of the Buy America requirement. The TTP, as amended by MAP-21, has, however, doubled the amount of funds available to Indian tribes under the TTP. FTA law requires that all capital procurements by grantees meet FTA’s Buy America requirements. Buy America states that all iron, steel, or manufactured products be produced in the U.S. Rolling stock purchases are subject to a minimum of 60 percent domestic content and final assembly requirement in the U.S. Unless FTA approves a waiver, a grantee’s compliance with the Buy America law at 49 U.S.C. §5323(j) and FTA’s Buy America implementing regulation at 49 C.F.R. Part 661 will help to create and protect manufacturing jobs in the U.S. FTA has therefore determined that MAP-21’s TTP will have a more significant economic impact toward meeting the objectives of the Buy America. Therefore, FTA has determined that TTP grantees should now comply with the Buy America requirements (49 CFR Part 661) for MAP-21’s TTP.

Comment: One commenter recommended that safety plans not be a requirement for FY2013 discretionary funding and an exemption be made in the rulemaking allowing Indian tribes that are currently developing such a plan, but which have not completed or certified a safety plan, still be eligible for funding in FY 2014. Additional comments

received agreed with FTA's proposal as the Indian tribes were given an opportunity to submit comments during the rulemaking process.

Response: 49 U.S.C. Section 5329 requires all grantees to develop comprehensive agency safety management plans that at a minimum include methods for identifying and evaluating safety risks, strategies to minimize exposure to hazards and unsafe conditions, and performance targets for safety performance criteria and state of good repairs standards established in a forthcoming National Public Transportation Safety plan. A rulemaking is forthcoming to explain the requirements for the development and certification of agency safety plans. FTA will be finalizing requirements through a subsequent rulemaking later this fiscal year. Tribes are encouraged to submit comments when the notices are published for these rulemakings. Until the rules are finalized, there is no specific safety plan requirement under the program.

Comment: Commenters agreed with FTA's proposal to allow the use of the existing system for capturing their inventory. One commenter stated that each Indian tribe typically insures it has an adequate property management system to procure, maintain capital asset inventory, depreciation schedule, and replace capital assets, and this would be a duplication of asset management should FTA apply this Transit Asset Management requirement.

Response: MAP-21 requires each recipient and subrecipient of FTA grants to establish a "transit asset management" (TAM) plan for its transit system. This requirement, however, would not be a condition for receiving FTA grants until FTA issues its rulemaking.

Comment: Although not solicited, several Indian tribes suggested that FTA should administer grants under this program in a manner that is either the same or similar to contracts and agreements under the Indian Self-Determination and Education Assistance Act (ISDEAA).

Response: FTA recognizes Indian tribes as sovereign governments that can independently administer certain Federal government programs as authorized by the ISDEAA. Although the statutory authority to enter into contracts with Indian tribes under ISDEAA does not include the FTA, FTA will continue to implement the program in a manner consistent with the principles of self-determination that are embodied in ISDEAA. To do so, FTA is streamlining and omitting some of the U.S. Department of Transportation and FTA regulatory requirements that apply to other FTA programs.

Comment: Two commenters suggested it was unfair for FTA to impose requirements under labor laws because each Indian tribe establishes its own fair-labor policies and practices as a function of Tribal Sovereignty. The Indian tribe also suggested that it was unnecessary and onerous to impose such a general requirement on all Indian tribes across the board while ignoring their own process.

Response: Grants awarded under the TTP are subject to a special warranty arrangement established and approved by the U.S. Department of Labor at 29 C.F.R. Section 215.7 to meet the labor protection requirement at 49 U.S.C. Section 5333(b) which is a condition of financial assistance for grantees under the Section 5311 program. MAP-21 retained this requirement.

Terms and Conditions that do not apply to Tribal Transit Program:

Comment: The majority of commenters agreed with FTA's proposal not to apply Pre-award and post-delivery audits and DBE regulations to the TTP.

Response: FTA will continue to exempt Indian tribes from the pre-award and post-delivery audit regulation at 49 C.F.R. Part 663 and the Disadvantaged Business Enterprise (DBE) regulation at 49 C.F.R. Part 26 under MAP-21.

A comprehensive list and description for all of the statutory and regulatory terms and conditions that will apply to the TTP are set forth in FTA's Master Agreement for the Tribal Transit Program available on FTA's website at: <http://www.fta.dot.gov>. In addition, as part of their application for grant award, the selected Indian tribes will be required to sign the Certifications

D. Discretionary Funding Opportunity for FY 2013

FTA is announcing the availability of approximately \$5 million in funding provided by the Public Transportation on Indian Reservations Program (Tribal Transit Program (TTP)). This part of the notice contains a national solicitation for project proposals and includes the selection criteria and program eligibility information for FY 2013 projects, which were developed as a result of the consultation process conducted to date and described earlier in this notice. For FY 2013, FTA anticipates making some exceptions acknowledging this is a transition year for the program and that due to the new formula some tribal recipients that provide transit services are not receiving a formula apportionment. The first is with regards to eligible projects and is described below; the second is regarding the local match that will be required for the discretionary operating and capital requests.

This announcement is available on the FTA Web site at: <http://www.fta.dot.gov>.

FTA may announce final selections on the Web site and in the Federal Register.

Additionally, a synopsis of the funding opportunity will be posted in the FIND module of the government-wide electronic grants Web site at <http://www.grants.gov>.

1. Overview

The Tribal Transit Program was established by section 3013 of SAFETEA-LU and modified under Section 5311(j) of MAP-21, Public Law 112-41 (July 6, 2012). MAP-21 amended the Public Transportation on Indian Reservations Program (Tribal Transit Program (TTP)) to consist of a \$25 million formula allocation and a \$5 million discretionary program. The program authorizes direct grants “under such terms and conditions as may be established by the Secretary” to Indian tribes for any purpose eligible under FTA’s Rural Areas Formula Program, 49 U.S.C. 5311. Approximately \$5 million is available for the Tribal Transit discretionary allocation in FY 2013 to projects selected pursuant to process described in the following sections.

2. Program Purpose

TTP funds are to be allocated for grants to federally recognized Indian tribes for any purpose eligible under the Section 5311 program. Funds distributed to Indian tribes under the TTP should not replace or reduce funds that Indian tribes receive from States through FTA’s Section 5311 program. The competitively selected TTP funds may support planning, capital, and limited operating assistance for tribal public transit services. Specific project eligibility under this competitive allocation is described in Section 3-ii below.

3. Program Information

i. Eligible Applicants

Eligible applicants include federally recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the U.S. Department of Interior (DOI), Bureau of Indian Affairs (BIA). As evidence of Federal recognition, an Indian tribe may submit a copy of the most up-to-date *Federal Register* Notice published by DOI, BIA: Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs. To be an eligible recipient, an Indian tribe must have the requisite legal, financial and technical capabilities to receive and administer Federal funds under this program. Applicants must be registered in the System for Award Management (SAM) database (instructions for registration are located under Appendix C) and maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by FTA.

ii. Eligible Projects

FTA will award grants to eligible Indian tribes located in non-urbanized, rural areas. Eligible projects include public transportation capital projects for start-ups, replacement or expansion, operating costs for start-ups, and planning. However, FY 2013 will be a transition year for the discretionary program. Exceptions will be made for those Indian tribes who are not receiving a FY 2013 formula apportionment or that only received a Tier 3 allocation. So long as the Indian tribe can demonstrate it provides public transportation, but had not yet reported to the NTD to be included in the FY 2013 formula apportionment, it will be allowed to apply for operating assistance to continue its operations. Indian tribes who currently do not have existing service are permitted to apply for start-up projects consisting of operating and/or capital funding requests. Indian tribes

applying for capital replacement or expansion needs must be able to demonstrate they have a sustainable source of operating funds for the existing or expansion services. The acquisition of public transportation services, including service agreements with private providers of public transportation services will also be eligible. Under the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et seq., public fixed-route operators are required to provide ADA complementary paratransit service to individuals who are unable to use a fixed route due to their disability or a fixed route being inaccessible. Public transportation includes regular, continuing shared-ride surface transportation services that are open to the public or open to a segment of the public defined by age, disability, or low income. Additionally, eligible applicants may apply for planning grants of up to \$25,000 for planning studies.

iii. Cost Sharing or Matching

The federal share for projects selected under the TTP discretionary program is up to a 90 percent federal share of project costs, unless the Indian tribe can demonstrate a financial hardship in their application. FTA is interested in the Indian tribe's financial commitment to the proposed project and requests Indian tribes include a description of their financial commitment to the proposed project in the proposal. Sources of local match can be found in Section C-3 of this document.

iv. Proposal Content (All Applicants Must Completely Respond to Items in this Section To Be Considered for TTP Funding) funding sources that are available to support public transportation service.

a. Proposal Submission Process

FTA requires all project proposals be submitted electronically through <http://www.GRANTS.GOV> by 11:59 p.m. EDT on (insert date 60 days from publication). Mail and fax submissions will not be accepted. A complete proposal submission will consist of at least two files: (1) the SF 424 Mandatory form (downloaded from GRANTS.GOV) and (2) the Tribal Transit supplemental form found on the FTA Web site at <http://www.fta.dot.gov/tribaltransit>. The Tribal Transit supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this Notice of Funding Availability (NOFA). Once completed, the applicant must place the supplemental form in the attachments section of the SF 424 Mandatory form. Applicants must use the supplemental form designated for TTP and attach the form to their submission in GRANTS.GOV, to complete the application process. A proposal submission may contain additional supporting documentation as attachments.

Within 24–48 hours after submitting an electronic application, the applicant should receive three email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV; (2) confirmation of successful validation by GRANTS.GOV; and (3) confirmation of successful validation by FTA. If the applicant does not receive confirmations of successful validation and instead receives a notice of failed validation or incomplete materials, the applicant must address the reason for the failed validation or incomplete materials, as described in the notice, and resubmit the proposal before the submission deadline. If making a resubmission for any reason, the applicant must include all original attachments regardless of which attachments are updated and check the box on the supplemental form indicating this is a resubmission. Complete instructions on the application process can be found at

<http://www.fta.dot.gov/tribaltransit>. Important: FTA urges applicants to submit their project proposals at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site <http://www.GRANTS.GOV>. The deadline will not be extended due to scheduled maintenance or outages.

Applicants may submit one proposal for each project or one proposal containing multiple projects. Applicants submitting multiple projects in one proposal must be sure to clearly define each project by completing a supplemental form for each project. Additional supplemental forms must be added within the proposal by clicking the “add project” button in Section II of the supplemental form.

Information, such as applicant name, Federal amount requested, description of areas served, and other information may be requested in varying degrees of detail on both the SF 424 form and supplemental form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should use both the “Check Package for Errors” and the “Validate Form” validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent. The following information MUST be included on the SF 424 and supplemental forms for all requests for TTP funding:

b. Proposal Information

1. Name of Federally-recognized tribe and, if appropriate, the specific tribal agency submitting the application.

2. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available. (Note: If selected, applicant will be required to provide DUNS number prior to grant award).
3. Contact information including: Contact name, title, address, congressional district, fax and phone number, and email address if available.
4. Description of public transportation services including areas currently served by the tribe, if any.
5. Name of person (s) authorized to apply on behalf of the tribe (attach a signed transmittal letter) must accompany the proposal.

c. Project Information

1. Project Description

Indicate the category for which funding is requested; i.e., project type: capital, operating or planning and then indicate the project purpose; i.e., start-up, expansion or replacement. Provide a summary description of the proposed project and how it will be implemented (e.g., number and type of vehicles, routes, service area, schedules, type of services, fixed route or demand responsive), route miles (if fixed route), ridership numbers (actual if an existing system, estimated if a new system), major origins and destinations, population served, and whether the tribe provides the service directly or contracts for services and how vehicles will be maintained.

2. Project Timeline

Include significant milestones such as date of contract for purchase of vehicle(s), actual or expected delivery date of vehicles; facility project phases (e.g NEPA compliance, design, construction); or dates for completion of planning studies. If

applying for operational funding for new services, indicate the period of time funds are used to operate the system (e.g. one year). This section should also include any significant dates for expected tribal council approvals for the projects, if applicable.

3. Budget

Include a detailed budget including the Federal amount requested for each purpose for which funds are sought and any funding from other sources that will be provided. An Indian tribe may allow up to fifteen percent of capital activities of the grant award for specific project-related planning and administration and the indirect costs rate may not exceed ten percent (if necessary add as an attachment) of the total request.

4. Technical, Legal, Financial Capacity

Indian tribes must be able to demonstrate adequate capacity in technical, legal and financial areas to be considered for funding. Every proposal MUST describe the Indian tribe's technical, legal, and financial capacity to implement the proposed project.

i. Technical Capacity: Provide examples of the Indian tribe's management of other Federal projects, including previously funded FTA projects and/or similar types of projects for which funding is being requested. Describe the resources the Indian tribe has to implement the proposed transit project.

ii. Legal Capacity: Provide documentation or other evidence to show that the applicant is a federally recognized Indian tribe and has an authorized representative to execute legal agreements with FTA on behalf of the Indian tribe. If applying for capital or operating funds, identify whether the Indian tribe has appropriate Federal or State operating authority.

iii. Financial Capacity: Identify whether the Indian tribe has adequate financial systems in place to receive and manage a Federal grant. Describe the Indian tribe's financial systems and controls. Describe other sources of funds the Indian tribe manages and describe the long-term financial capacity to maintain the proposed or existing transit services.

v. Evaluation Criteria Operating and Capital Assistance Requests

Applications will be grouped into their respective category for review and scoring purposes. Applicants must address criteria in Sections *a-e* for operating and capital requests. Applicants applying for planning grants must address evaluation criteria in Section *f*.

a. Planning and Local/Regional Prioritization

In this section, the applicant should describe how the proposed project was developed and demonstrate that there is a sound basis for the project and that the applicant is ready to implement the project if funded. Information may vary depending upon how the planning process for the project was conducted and what is being requested. Planning and local/regional prioritization should consider and address the following areas:

1. Describe the planning document and/or the planning process conducted to identify the proposed project.
2. Provide a detailed project description including the proposed service, vehicle and facility needs, and other pertinent characteristics of the proposed or existing service implementation.

3. Identify existing transportation services in and near the proposed service area and document in detail, whether the proposed project will provide opportunities to coordinate service with existing transit services, including human service agencies, intercity bus services, or other public transit providers.
4. Discuss the level of support by the community and/or tribal government for the proposed project.
5. Describe how the mobility and client-access needs of tribal human service agencies were considered in the planning process.
6. Describe what opportunities for public participation were provided in the planning process and how the proposed transit service or existing service has been coordinated with transportation provided for the clients of human service agencies, with intercity bus transportation in the area, or with any other rural public transit providers.
7. Describe how the proposed service complements rather than duplicates any currently available services.
8. Describe the implementation schedule for the proposed project, including period, staffing, and procurement.
9. Describe any other planning or coordination efforts that not mentioned above.

b. Project Readiness: In this section, the applicant should describe the extent to which the project is ready to implement. This will involve assessing whether:

1. Project is a Categorical Exclusion (CE) or the required environmental work has been initiated or completed for construction projects requiring an Environmental Assessment (EA) or Environmental Impact Statement

(EIS) under, among others, the National Environmental Policy Act of 1969, as amended.

2. Project implementation plans are complete, including initial design of facilities projects.
3. Project funds can be obligated and the project can be implemented quickly, if selected.
4. Applicant demonstrates the ability to carry out the proposed project successfully.

c. Demonstration of Need:

FTA will evaluate each project to determine its needs for resources. In addition to the project-specific criteria, this will include evaluating the project's impact on service delivery and whether the project represents a one-time or periodic need that cannot reasonably be funded from the FTA program formula allocations or State and/or local resources. In this section, the proposal should demonstrate the transit needs of the Indian tribe and discuss how the proposed transit improvements or the new service will address the identified transit needs. Proposals should include information such as destinations and services not currently accessible by transit, needs for access to jobs or health care, special needs of seniors and individuals with disabilities, income-based community needs, or other mobility needs. If an applicant received a planning grant in previous fiscal years, it should indicate the status of the planning study and how the proposed project relates to that study.

Capital expansion or replacement projects should also address the following in the proposal. If the proposal is for capital funding associated with an expansion or expanded

service, the applicant should describe how current or growing demand for the service necessitates the expansion (and therefore, more capital) and/or the degree to how the project is addressing a current capacity constraint. Capital replacement projects should include information about the age, condition, and performance of the asset to be replaced by the proposed project and/or how the replacement may be necessary to maintain the transit system in a state of good repair.

d. Demonstration of Benefits

In this section, proposals should identify expected or, in the case of existing service, achieved, project benefits. Possible examples include increased or sustained ridership and daily trips, improved service, improved operations and coordination, increased reliability, and economic benefits to the community. Benefits can be demonstrated by identifying the population of tribal members and non-tribal members in the proposed project service area and estimating the number of daily one-way trips the proposed transit service will provide or the actual number of individual riders and trips on existing service. There may be many other, less quantifiable, benefits to the Indian tribe and surrounding community from the proposed project. Applicants should document, explain or show the benefits in whatever format is reasonable to present them.

Based on the information provided, proposals will be rated based on four factors:

1. Will the project improve transit efficiency or increase ridership?
2. Will the project improve or maintain mobility for the Indian tribe?
3. Will the project improve or maintain access to important destinations and services?

4. Are there other qualitative benefits?

e. Financial Commitment and Operating Capacity

In this section, the proposal should identify the source of local match (10 percent is required for all operating and capital projects), and any other funding sources used by the Indian tribe to support proposed transit services, including human service transportation funding, Indian Reservation Roads, or other FTA programs. If requesting the local match to be waived based on financial hardship, the applicant must submit budgets and sources of other revenue to demonstrate hardship. If applicable, the applicant should also describe how prior year TTP funds have been spent to date to support the service. Additionally, Indian tribes applying for operating of new services should provide a sustainable funding plan that demonstrates how it intends to maintain operations.

The proposal should describe any other resources the Indian tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources, and describe to what extent the new project or funding for existing service leverages other funding. Based upon the information provided, the proposals will be rated on the extent to which the proposal demonstrates that:

1. TTP Funding does not replace existing funding
1. The Indian tribe will provide non-financial support to the project;
2. Indian tribe's ability to demonstrate a sustainable funding plan; and
3. Project funds are used in coordination with other services for efficient utilization of funds.

f. Evaluation Criteria for Planning Proposals

For planning grants, the proposal should describe, in no more than three pages, the need for and a general scope of the proposed study. The proposal should also address the following:

1. What the tribes' long-term commitment to transit is?
2. How the proposed study will be implemented and/or further tribal transit.

vi. Review and Selection Process

A technical evaluation committee will review proposals under the project evaluation criteria. Members of the technical evaluation committee and other involved FTA staff reserve the right to screen and rate the applications it receives and to seek clarification from any applicant about any statement in its application that FTA finds ambiguous and/or request additional documentation to be considered during the evaluation process to clarify information contained within the proposal.

After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each project. Geographic diversity and the applicant's receipt and management of other discretionary awards may be considered in FTA's award decisions. FTA expects to announce the selected projects and notify successful applicants by September 2013. Once successful applicants are announced, they will work with the appropriate Regional office to develop a grant application consistent with the selected proposal in FTA's Transportation Electronic Award Management System (TEAM).

4. Technical Assistance and other Program Information

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." FTA will consider applications for funding only from eligible

recipients for eligible projects listed in Section 3- ii. Due to funding limitations, applicants that are selected for funding may receive less than the amount requested. Complete applications must be submitted through GRANTS.GOV by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

Applicants may receive technical assistance for application development by contacting their FTA regional tribal liaison, or the National Rural Transportation Assistance Program office (Appendix B). Contact information for FTA's regional offices can be found on FTA's website at www.fta.dot.gov. A list of FTA regional Tribal Liaisons are included in Appendix A.

Peter Rogoff
Administrator

APPENDIX A

FTA REGIONAL TRIBAL LIAISONS

Region 1-Boston Regional Tribal Liaisons: Laurie Ansaldi and Judi Molloy States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	Region 6-Ft. Worth Regional Tribal Liaison: Lynn Hayes States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas
Region 2-New York Regional Tribal Liaison: Darin Allan States served: New Jersey, New York New York Metropolitan Office	Region 7-Kansas City, MO Regional Tribal Liaisons: Joni Roeseler and Cathy Monroe States served: Iowa, Kansas, Missouri, and Nebraska
Region 3-Philadelphia States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia	Region 8-Denver Regional Tribal Liaisons: Jennifer Stewart and David Beckhouse States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming
Region 4-Atlanta Regional Tribal Liaison: Tajsha LaShore States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands	Region 9-San Francisco Regional Tribal Liaison: Eric Eidlin States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands
Region 5-Chicago Regional Tribal Liaisons: Joyce Taylor and Angelica Salgado States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin	Region 10-Seattle Regional Tribal Liaison: Bill Ramos States served: Alaska, Idaho, Oregon, and Washington

APPENDIX B

TECHNICAL ASSISTANCE CONTACTS

Alaska Tribal Technical Assistance Program Kim Williams University of Alaska, Fairbanks P.O. Box 756720 Fairbanks, AK 99775-6720 (907)842-2521 (907)474-5208 williams@nushtel.net http://community.uaf.edu/~alaskattac Service area: Alaska	Northern Plains Tribal Technical Assistance Program Dennis Trusty United Tribes Technical College 3315 University Drive Bismarck, ND 58504 (701)255-3285 ext. 1262 (701)530-0635 nddennis@hotmail.com http://www.uttc.edu/forum/ttap/ttap.asp Service area: Montana (Eastern), Nebraska (Northern), North Dakota, South Dakota, Wyoming
National Indian Justice Center Raquelle Myers 5250 Aero Drive Santa Rosa, CA 95403 (707) 579-5507 or (800) 966-0662 (707) 579-9019 nijc@aol.com http://www.nijc.org/ttap.html Service area: California, Nevada	Northwest Tribal Technical Assistance Program Richard A. Rolland Eastern Washington University Department of Urban Planning Public & Health Administration 216 Isle Hall Cheney, WA 99004 (800)583-3187 (509)359-7485 rrolland@ewu.edu http://www.ewu.edu/TTAP/ Service area: Idaho, Montana (Western), Oregon, Washington
Tribal Technical Assistance Program at Colorado State University Ronald Hall Rockwell Hall, Room 321 Colorado State University Fort Collins, CO 80523-1276 (800)262-7623 (970)491-3502 ronald.hall@colostate.edu http://ttap.colostate.edu/ Service area: Arizona, Colorado, New Mexico, Utah	Tribal Technical Assistance Program at Oklahoma State University James Self Oklahoma State University 5202 N. Richmond Hills Road Stillwater, OK 74078-0001 (405)744-6049 (405)744-7268 jim.self@okstate.edu http://ttap.okstate.edu/ Service area: Kansas, Nebraska (Southern), Oklahoma, Texas

<p>Tribal Technical Assistance Program (TTAP) Bernie D. Alkire 301-E Dillman Hall Michigan Technological University 1400 Townsend Drive Houghton, MI 49931-1295 (888)230-0688 (906)487-1834 balkire@mtu.edu http://www.ttap.mtu.edu/ Service area: Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania,</p>	<p>National RTAP (National Rural Transit Assistance Program) Contact: Patti Monahan National RTAP 5 Wheeling Ave Woburn, MA 01801 (781) 404-5015 (Direct) (781) 895-1122 (Fax) (888) 589-6821 (Toll Free) pmonahan@nationalrtap.org www.nationalrtap.org</p>
<p>Community Transportation Association of America The Resource Center – 800-891-0590 http://www.ctaa.org/</p>	

APPENDIX C

REGISTERING IN SAM AND GRANTS.GOV

Registration in Brief:

Registration takes approximately 3-5 business days, please allow 4 weeks for completion of all steps.

In order to apply for a grant, you and/or your organization must first complete the registration process in Grants.gov. The registration process for an Organization or an Individual can take between three to five business days or as long as four weeks if all steps are not completed in a timely manner. So please register in Grants.gov early. The Grants.gov registration process ensures that applicants for Federal Funds have the basic prerequisites to apply for and to receive federal funds. Applicants for FTA discretionary funds must:

- Have a valid DUNS number
- Have a current registration in SAM (formerly CCR)
- Register and apply in Grants.gov

The required registration steps are described in greater detail on Grants.gov website. The following is a link to a helpful checklist and explanations published by Grants.gov to assist applicants: Organization Registration Checklist. If you have not recently applied for federal funds, we recommend that you initiate your search, registration, and application process with Grants.gov. Visiting the Grants.gov site will inform you of how to apply for grant opportunities, as well as assist you in linking to the other required registrations, i.e., Dun & Bradstreet to obtain a DUNS Number, and System for Award Management (SAM).

Summary of steps (these steps are available in Grants.gov during registration):

STEP 1: Obtain DUNS Number

Same day. If requested by phone (1-866-705-5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet website at <http://fedgov.dnb.com/webform> to obtain the number.

STEP 2: Register with SAM

Three to five business days or up to two weeks. If you already have a TIN, your SAM registration will take 3-5 business days to process. If you are applying for an EIN please allow up to 2 weeks. Ensure that your organization is registered with the System for Award Management (SAM) at System for Award Management (SAM). If your organization is not, an authorizing official of your organization must register.

STEP 3: Establish an Account in Grants.gov - Username & Password

Same day. Complete your AOR (Authorized Organization Representative) profile on Grants.gov and create your username and password. You will need to use your

organization's DUNS Number to complete this step.
<https://apply07.grants.gov/apply/OrcRegister>.

STEP 4: Grants.gov - AOR Authorization

*Same day. The E-Business Point of Contact (E-Biz POC) at your organization must login to Grants.gov to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization. *Time depends on responsiveness of your E-Biz POC.

*Please Note: Grants.gov gives you the option of registering as an "individual" or as an "organization." If you register in Grants.gov as an as an "Individual," your "Organization" will not be allowed to use the Grants.gov username and password. To apply for grants as an Organization you must register as an Organization and use that specific username and password issued during the "organization" registration process.

[FR Doc. 2013-11053 Filed 05/08/2013 at 8:45 am; Publication Date:
05/09/2013]